

REMARKS

Claims 4, 6 and 11 are amended and claims 12 – 16 are added. Claims 1 – 16 are presented for examination and are subject to an election requirement as provided below.

The Examiner requires an election of species under PCT Rule 13.1 regarding the compounds of formula (I). Applicants are required to provisionally elect a species for examination even if with traverse.

Applicants hereby provisionally elect with traverse to prosecute the compound of formula I' in which R¹ is 2-chloro-pyrid-4-yl; n is 0; each Ra is hydrogen; p and q are 2, and R⁸ is 4-chloro-cinnamyl. The provisionally elected compound is designated in the specification as III-3, the structure of which is shown in paragraph [0069] on page 17 in combination with Table I on page 7, its mass spectra is displayed in Table 2 on page 51, its preparation is described in Example 1 on pages 59-60, and its biological data is presented in paragraphs [0353]-[0357] on pages 62-63 of the published patent application US 2007/225269 corresponding to the above-identified application.

The provisionally elected species compound is encompassed within formula I' including claim 9 as filed. Claims 9 and 12 – 16 read on the elected species. In addition, compositions comprising the compounds of formula I' are specified in claim 11 as amended. The elected species also is included within the scope of formula I in the methods of claims 1 – 8.

Applicants respectfully request that the compounds of formula II, i.e. claim 10, be rejoined in the event that the Examiner holds that claim 9 as filed and claim 11 as amended are allowable, since the compounds of formula II are intermediates used in the synthesis of the compounds of formula I'.

Applicants traverse the requirement for election of species. More specifically, Applicants submit that that no lack of unity has been found in the international application. Therefore, the examination of such inventions in the instant PCT national stage application clearly should not present an undue burden on the PTO. What is represented is interrelated subject matter. This interrelationship rather than the classification in separate classes should be the overriding factor in determining the propriety of the unity requirement. Additionally, the current guidelines on unity practice recommend the examination of different sets of claims when such examination would not

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be unduly burdensome or prolonged. For the foregoing reasons, it is contended that this guideline would apply to the instant set of claims.

Applicants aver that a complete response to the election requirement of the Examiner has been made and that the instant application and claims are now in condition for examination on their merits and for allowance.

Respectfully submitted,

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